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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,618	02/12/2001	Martin Sommer	SGW-109	9111
23599	7590	08/25/2004	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			CHEVALIER, ALICIA ANN	
		ART UNIT	PAPER NUMBER	1772

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/780,618	SOMMER ET AL.	
	Examiner	Art Unit	
	Alicia Chevalier	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 May 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 and 9-29 is/are pending in the application.
- 4a) Of the above claim(s) 7, 12, 23, 24 and 28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6, 9-11, 13-22, 25-27 and 29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/10/04.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

RESPONSE TO AMENDMENT

1. Claims 1-7 and 9-29 are pending in the application, claims 7, 12, 23, 24 and 28 are withdrawn from consideration. Claim 8 has been cancelled.

WITHDRAWN REJECTIONS

2. The 35 U.S.C. §112, first paragraph, rejection of claim 29, made of record in office action mailed March 8, 2004, pages 4-5, paragraph #12 have been withdrawn due to the fact that page 9 of the specification has now been properly scanned into the Image File Wrapper.

REJECTIONS REPEATED

3. The 35 U.S.C. §102 rejection of claims 1-6, 9-11, 13-22, 25-27 and 29 over Hall (US Patent No. 4,135,789) is repeated for reasons previously made of record in office action mailed March 8, 2004, pages 5-7, paragraph #13.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments in the response filed May 10, 2004 regarding the 35 U.S.C. §112, first paragraph, rejection of claim 29 of record have been considered but are moot since the rejections have been withdrawn.

5. Applicant's arguments in the response filed May 10, 2004 regarding the 35 U.S.C. §102 rejection over Hall of record have been carefully considered but are deemed unpersuasive.

Applicant is thanked for the missing copy of the excerpt from Principles of Welding.

Applicant argued in the previous response, filed Nov. 26, 2003, that the excerpt from the book titled *Principles of Welding, Processes, Physics, Chemistry* demonstrated the effect on the structure of the materials bonded by a variety of welding techniques. Applicant further argued that the structures of the products obtained by differing welding processes are different.

The Examiner has read the excerpt from *Principles of Welding, Processes, Physics, Chemistry*. However, as pointed out in the office action mailed March 8, 2004, method limitations, such as “bonded together by a pressure weld,” do not determine the patentability of the product, unless the process produces *unexpected results*. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents *evidence* from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113.

In the instant application the opening in the brittle-fracture material is sealed with a sealing element to create a hermetic seal (*Applicant’s specification page 2, lines 16-20*). Since, Hall discloses that the opening in the molded element is hermetically sealed with a sealing element (*Hall col. 2, lines 45-46 and col. 3, lines 1-9*), there does not appear to be a difference between the prior art article and instant claimed invention resulting from the claimed method.

The excerpt from *Principles of Welding, Processes, Physics, Chemistry* discusses different types of welds but does not discuss why one is better than the other or what unexpected results would occur in brittle fracture material in regard to each type of weld.

Furthermore, Applicant’s specification recites “continuous bonding between molded element and sealing element is *preferably* produced by a connecting pressure weld process that is known per se.” Therefore, Applicant does not disclose criticality or show unexpected results for

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bonding the sealing element to the molded element via "pressure welds." The process of pressure welding is merely the preferred bonding mechanic to get a hermetic seal.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

8/16/04




HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

8/18/04